

**July 21, 2015**  
**TUCKAHOE PLANNING BOARD**  
**TUCKAHOE VILLAGE HAL**  
**Regular Meeting – 7:30pm**

**Present:**      Chairperson              Ann Marie Ciaramella  
                 Commissioner          Raymond Nerenberg  
                 Commissioner        Melba Caliano  
                 Commissioner        Clare Gorman  
                 Commissioner        David Barra

**Absent:**        Commissioner          Eric Fang – Ad Hoc

**Also in Attendance:**

                 Gary Gjertsen              Village Attorney  
                 Bill Williams            Building Inspector  
                 Frank Fish                Village Consultant  
                 Jim Pinto                 Village Consultant

**Chairwoman Ciaramella announced the evening's agenda as follows:**

<b>Item #1</b>	<b>Approval of minutes of Regular meeting held on May 19, 2015</b>	
<b>Item #2</b>	<b>73 Main Street</b>	<b>Return</b>
<b>Item #3</b>	<b>109 Marbledale Road</b>	<b>Return</b>
<b>Item #4</b>	<b>100 Pleasant Avenue</b>	<b>Site Plan</b>
<b>Item #5</b>	<b>100 Main Street</b>	<b>Adjourned</b>
<b>Item #6</b>	<b>50 Columbus Avenue</b>	<b>Adjourned</b>
<b>Item #7</b>	<b>10 Fisher Avenue</b>	<b>Adjourned</b>
<b>Item #8</b>	<b>69 Main Street</b>	<b>Adjourned</b>

## **Item #1 Approval of minutes of Regular meeting held on May 19, 2015**

**Commissioner Nerenberg motioned to approve the minutes from the May 19, 2015 meeting, was seconded by Commissioner Caliano and carried with a vote of 4 – 0, with Commissioner Barra abstaining.**

**Chairwoman Ciaramella welcomed Commissioner David Barra as the newest member of the Planning Board.**

## **Item #2 73 Main Street**

### **Return**

Mr. Leonard Brandes, architect representing the applicant addressed the garbage disposal. There will be rodent proof sheds for 4 recycling containers and 4 trash containers. The DPW sent a letter stating that the garbage pickup can occur 3 or 4 times per week during their regular pick up. A private carting company can be obtained if a daily pick up is needed. The entry way will not be the shared entrance door. Subway will have its own entrance that will be handicap accessible. There will be 16 seats inside. The signage will not have lights. The applicant is aware that he will have to present his application before the Sign and Awning Board, but displayed photos of a potential Subway sign. The applicant has obtained parking spaces in the Cameron Place parking lot.

Commissioner Barra stated that he would abstain from voting on this application, as he is a new member of the Board.

## **Public Comments**

Elizabeth Hery 15 Oak Ave. Tuckahoe NY stated that there is an active petition against food chains in the Village. She stated that Mr. Pope has invested quite a lot of money into this Village and a fast food chain is not the image that the residents want displayed. She voiced her concern regarding the impact on traffic and parking as well. Ms. Hery asked the Board to consider this before voting on this application.

**Commissioner Caliano motioned to close the public hearing, seconded by Commissioner Nerenberg and carried with a vote of 4 – 0.**

Chairwoman Ciaramella stated that this Board cannot stop this application. There is no law in the Village code that prohibits fast food chains.

Commissioner Gorman echoed the Chairwoman's statement and added that the Village code allows fast food establishments. The Village Board must pass legislature to prohibit fast food chains. It is not this Board's purview.

Commissioner Caliano noted that this Board's purview is to the protection of the safety, health and welfare of the public. This Board needs to protect people from inappropriate uses. Subway is not offering a healthy food type, which falls under health and safety of the people.

Leonard Brandes added that Subway is healthy. Greenwich Ct. has two Subway establishments in their town.

**Chairwoman Ciaramella offered the following Resolution:**

CASE NUMBER: BA15-013 APPLICATION DATE: 2/13/2015

LOCATION OF PROJECT: 73 Main Street, Tuckahoe, NY

SECTION: 33 BLOCK: 8 LOT: 14

DESCRIPTION OF PROJECT: Build out of (approx.) 1,000 sq ft. retail Subway restaurant in a vacant space

APPLICANT: Frank Madaio

ADDRESS: 27 Desmond Ave, Bronxville, NY

TELEPHONE: 914-309-6572

**THE FOLLOWING IS THE RESOLUTION/DECISION OF THE PLANNING:**

Based on the Application dated February 13, 2015, all submissions subsequently filed by the applicant and hearing the applicant in a number of work sessions and public hearings the application for site plan for a Subway restaurant located at 73 Main Street, Tuckahoe is approved.

In determining whether to approve a site plan or not this Board is governed by and must review the site plan pursuant to the standards set forth in Sec 7-1 of the Village of Tuckahoe Zoning Ordinance of 2001. Since there are no variances required we deem this application to be complete and apply the standards of Sec 7-1. The standards of Sec 7-1 are as follows:

1. Safe, adequate and convenient vehicular and pedestrian traffic circulation both within and without the site.

The location of this site provides no on-site parking for customers. There are metered spaces for the establishment located directly in front of the premises and up and down Main Street. The applicant has suggested and we agree that most of the customers that are expected to patronize the business will be individuals that walk to the establishment. There are a number of businesses and residences within a short walking distance of the premises and the Tuckahoe train station is also a short walk from the premises. For these reasons, the applicant has demonstrated compliance with this section.

2. The protection of environmental quality and the preservation and enhancement of property values in the neighboring area.

The restaurant will be located in an existing building. The applicant's plan calls for shielding the refuse area with fencing. The impact to the neighboring businesses and residential area will be minimal.

3. A quality of building and overall site design which will enhance and protect the character and property values of the adjacent neighborhood. The Planning Board shall evaluate the architectural features of the proposed design to determine if they are in harmony with the neighborhood, including consideration of architectural style, bulk, dimensions, materials and location on the site and, in relation to development on adjoining properties, the natural terrain and vegetation.

As stated previously the restaurant will be located in an existing building and will have minimal impact on the surrounding area. The signage will be reviewed and approved by the Sign and Awning Committee. The exterior of the building will have minimal changes to the look and feel of the overall building. The Applicant has demonstrated the interior layout of the building is conducive to the anticipated use of the building.

Further, pursuant to the regulations of SEQRA this Board finds that:

1. The action taken herein is an Unlisted Action subject to the requirements of SEQRA and its implementing regulations.
2. This Board is in possession of all information reasonably necessary to make the determination as to the environmental significance of the proposed site plan application.
3. That the action taken herein shall not have a significant adverse impact on the environment and it is declared that a Negative Declaration is hereby adopted with regard to this action.

This application is approved with the following conditions:

1. The hours of operation on Monday through Friday shall be no earlier than 7:00 a.m. and no later than 10:00 p.m. .
2. The hours of operation on Saturday and Sunday shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.
3. Deliveries shall be made during non-peak hours (M-F 7:00 a.m. to 10:00 a.m. and 4:00 p.m. to 7:00 p.m.) and the delivery truck shall park on Cameron to make said deliveries.
4. There shall be no use of the basement of the premises without a further resolution of this Board.

**LASTLY EVERY REPRESENTATION OF THE APPLICANT MADE ITS APPLICATION AND PRESENTATION WILL BE A CONDITION OF THE**

APPROVAL BOARD. ANY DEVIATION FROM THE REPRESENTATION MADE SHALL BE CAUSE FOR THE REVOCATION OF SAID APPROVAL.

**Commissioner Nerenberg motioned to accept the resolution, Commissioner Gorman seconded the motion and upon roll call was carried with a vote of 3 – 1; Commissioner Caliano voted No and Commissioner Barra abstained.**

**Item #3 109 Marbledale Road Return**

Gary Warshauer, architect for the applicant, noted that there were not any major changes to the proposals since January. The Marriott Springhill Suites and Restaurant application is still going through the Brownfield process. It will have 163 rooms and a 6400 sq. ft. restaurant. Access to the hotel will be via Marbledale Rd. with a single curb cut. The restaurant will have a full service curb cut.

The first floor of the hotel will have a lobby, lounge, breakfast area, indoor pool and great rooms. The floors above will be all guest rooms.

There will be new landscaping, new sidewalk with a pedestrian connection from the hotel to the restaurant. The restaurant will have a new sidewalk to Marbledale Rd.

The colors of the hotel will be consistent with the prototype; stucco material with brown, beige and blue colors.

The restaurant will be stucco to match the hotel, awnings, a metal roof and an outdoor terrace.

Mr. Warshauer noted that there would be a zero increase in the rate of water runoff. Any additional run off from newly paved areas will be retained and released slowly.

Bill Canavan, Certified Professional Geologist, is responsible for taking the site through the Brownfield process. He noted that the Remedial Investigative Phase is completed. The site was tested from February through May with soil samples and vapor samples tested throughout the site. All the results are compiled and placed in the Tuckahoe library for residents to review.

The soil had remnants of auto parts, mattress parts, glass, cinders, ash and construction debris.

The top two inches of soil will need to be managed either by capping or managed when excavated off the site. The plan must follow an air-monitoring plan. An air-monitoring plan protects people working on the site and those off site. This plan must be approved by the DEC. If an alarm goes off indicating there is dust airborne, the process must be stopped and reported to the DEC. Steps must be followed such as spraying water to keep dust from travelling away from the site.

The subsurface soils which are between 1 – 85 ft. below grade level must be dealt with by capping or offsite disposal. The remedial plan must be approved by the DEC. The plan will include provisions for soil vapor which will have pipes like a radon system. The DOH and DEC must approve the remedial plans for all.

Mr. Canavan stated that this is not a clean site, but the data indicates that there are no significant risks.

Mr. Canavan continued and stated that the Remedial Action Plan must be approved by the DEC and DOH. This process takes time as they may have questions that need to be clarified. They may want sections capped rather than moved.

Commissioner Nerenberg asked if the plan to place a hotel on this site is an improvement to the site.

Mr. Canavan noted that capping some of the site with 6 in. of blacktop and developing the site is a huge improvement to the vacant lot with high weeds.

He added that a Brownfield site must be monitored at all times. The DEC and DOH may make unannounced visits to check the process.

Jim Pinto, Village Consultant, added that the DEC reviews the Remedial Action Plan and either approves it, or revises the activity. The site will be under the guidelines of the approved Remedial Action Plan.

Frank Fish, Village Consultant, noted that this application is not a complete application. The DEC and Westchester County Planning Board has agreed that the Tuckahoe Planning Board should be lead agency for this application. The following options must be considered for the determination of significance:

- A Negative Declaration which is not applicable

- A Conditional Negative Declaration CND, which is a Negative Declaration with conditions. The applicant must meet all the requirements set forth by the DEC

- A Full Environmental Impact Statement EIS is a positive declaration and the Planning Board reviews all the DEC findings and incorporates its own findings.

Mr. Fish noted that the DEC will have final say over the process. The potential liability would be with the DEC if a CND is chosen. When conditions are met, it automatically is a negative declaration. The applicant does not have a complete application until the SEQRA is satisfied. The public has access to all the information from the DEC in the library.

Mr. Pinto advised the Board to hire an outside environmental engineer to walk the Board through the DEC findings to educate the Board.

Commissioner Gorman asked if the DOH would be included and the site must meet all of their conditions as well.

Mr. Fish noted that the DEC and DOH are very involved agencies that are very strict and are experts with this subject. The DEC must approve the plan, so therefore, the liability rests with the DEC experts. If traffic were a concern, the Planning Board would do its own EIS. Since this site has potential hazardous materials as a concern, and not traffic, the Planning Board can leave it to the DEC to oversee.

Mr. Fish agreed with Mr. Pinto and indicated that the Village Board could hire an outside engineering consultant to mitigate and explain the DEC findings, or the applicant could pay into an escrow account.

Gary Gjertsen, Village Attorney, noted that he would review previous resolutions to see if an outside consultant was paid for by the applicant.

Commissioner Caliano voiced her concerns regarding the SEQR process. She noted that she would prefer an EIS and is not comfortable with a CND. She added that this particular site warrants a Full EIS.

Mr. Rocco Salerno, attorney for the applicant, asked if the Board could begin the clock today and the residents can review the material over the summer months. In September, the Board can deny the CND. By starting the clock now, it will give the public the opportunity to speak.

Mr. Gjertsen added that the DEC, DOH, and outside professional environmental engineer will have to all sign off on the Remedial Action Plan.

Commissioner Caliano asked if the Board could transition from a CND to a Full EIS if there are concerns.

Mr. Fish said yes, the Board could change it from a CND to a Full EIS.

Commissioner Nerenberg added that even if the Planning Board has suggestions, the DEC and DOH have the last word and they make the final determination.

Mr. Pinto added that the DEC will spell out the Remedial Action Plan guidelines, but there are ongoing systems that will need to be monitored and maintained by Marriott. The DEC does not follow up on a long-term basis. He stressed the importance of hiring an outside environmental engineer to secure the long-term follow-up routines.

**Chairwoman Ciaramella motioned to publish the proposed Conditional Negative Declaration (CND) to allow the public to comment until September 14, 2015 unless otherwise extended. If the CND is approved on Sept. 15, 2015, the Board could possibly open the public hearing.**

**Commissioner Nerenberg seconded the motion and was carried with a vote of 5 – 0.**

Joe Marrinello, resident, was quite upset and asked Chairwoman Ciaramella to be heard. He thanked Mr. Pinto for recommending an outside environmental engineer. He thanked Commissioner Caliano for voicing her concern regarding the need for a Full EIS. He stated that he does not have confidence in the experts. He is very concerned about the contaminants and stated that many people died from respiratory issues due to this quarry. He asked the Board not to hurry this process. The traffic is already heavy. He recommended waiting until the other big projects in the Village have been completed before adding a new one. He added that the developer should pay for the outside consultants if he wants to develop this site; the taxpayers should not pay for the consultant.

#### **Item #4 100 Pleasant Avenue**

#### **Site Plan**

David Barbuti, architect for the applicant, noted that this is an existing convent and the applicant would like to create a private, non for profit school on the first floor, the Newman Classical School. The school would be open for the 2015 – 2016 school year. It will consist of Pre K – K. The enrollment at this time is fewer than 10 children. The children are now mostly homeschooled. The plans are to add a bathroom to comply with building requirements, one for males and one for females and an updated new fire alarm system. As the student population grows, the applicant will return to occupy the second and possibly third floor of the convent.

The hours of operation would be M- F from 9:00 to 2:00. The drop off would be in the small parking lot closest to the door.

Mark Hyman, founder of the school, stated that he is in the midst of the application process with the NYS Board of Regents. The application requires a Certificate of Occupancy. This is a one-year lease and if the school continues and grows, he will return to the Planning Board next year.

Commissioner Gorman suggested that the applicant make special arrangements for funeral masses and such.



**Commissioner Gorman motioned to open the public hearing, seconded by Commissioner Caliano and carried with a vote of 4 – 0; Chairwoman Ciaramella abstained.**

**No Public Comments**

**Commissioner Caliano motioned to close the public hearing, seconded by Commissioner Gorman and carried with a vote of 4 – 0; Chairwoman Ciaramella abstained.**

**Commissioner Nerenberg motioned to accept the application as presented this evening with the condition that any expansion to the school, the applicant is required to return to the Planning Board for review. The traffic plan for the morning drop off of the students and alternative plans for funeral masses be considered as suggested by Commissioner Gorman.**

**Commissioner Caliano seconded the motion and was carried with a vote of 4 – 0; Chairwoman Ciaramella abstained.**

**Item #5 100 Main Street**

**Adjourned**

**Item #6 50 Columbus Avenue**

**Adjourned**

**Item #7 10 Fisher Avenue**

**Adjourned**

**Item #8 69 Main Street**

**Adjourned**

There being no further comments from the public or business before the Board, upon motion duly made, seconded and unanimously carried, the meeting was adjourned.